

1 MAY 1947

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1 MAY 1947

I N D E X
of
EXHIBITS

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Thursday, 1 May 1947

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

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Appearances:

For the Tribunal, same as before with the
exception of: THE HONORABLE MR. JUSTICE NORTHCROFT,
not sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

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(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now in session.

2 THE PRESIDENT: All the accused are present
3 except OKA, HIRANUMA and TOGO who are represented by
4 counsel. The surgeon of the Sugamo Prison certifies
5 that the three named accused are too ill to attend the
6 trial today. His certificate will be recorded and
7 filed.
8

9 Mr. Roberts.

10 S U E M A S A O K A M O T O, called as a witness
11 on behalf of the defense, resumed the stand and
12 testified through Japanese interpreters as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. ROBERTS (Continued):

16 MR. ROBERTS: Mr. President, I continue reading
17 exhibit No. 2517 on page 3, beginning with the second
18 paragraph.

19 "Continuing Mr. Yui said that in reply he
20 would first of all like to refer to the Agreement in
21 question (May 5th, 1932 Agreement). In his submission,
22 the Joint Commission which was created by virtue of
23 this Agreement could only function according to the
24 explicit provisions laid down therein. The representa-
25 tives of the Participating Friendly Powers had given

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1 great help and advice in bringing about the cessation
2 of hostilities in 1932, and in framing the May 5th, 1932
3 Agreement they had envisaged the situation as it
4 existed at the time, i.e. in order to avoid a further
5 clash between the opposing forces, the Chinese troops
6 were to remain in the position they were in at the
7 time, and the Japanese troops were to be withdrawn to the
8 International Settlement and the extra-Settlement
9 roads in the Hongkew District. It was felt necessary
10 and advisable that there should be some supervision
11 of these conditions and so the Joint Commission was
12 set up for the purpose. Article I of the Agreement
13 said that as the Japanese and Chinese Authorities had
14 already ordered to cease fire, the cessation of hos-
15 tilities was to be made definite from May 5th, 1932,
16 and that the two sides were to cease every form of hos-
17 tile act. Article II provided that the Chinese troops
18 were to remain in the positions described in Annex I
19 of the Agreement, the intention being of course that
20 if they did not remain in those positions the Joint
21 Commission could interfere. Article III provided for
22 the withdrawal of the Japanese forces to the places
23 specified, the duty of the Joint Commission being to
24 see that this was done. Article IV provided for the
25 establishment of the Joint Commission to certify to

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1 the mutual withdrawal and to collaborate in arranging
2 for the transfer from the evacuating Japanese forces
3 to the incoming Chinese police - a special constabulary.
4 Thus the functions and duties of the Joint Commission
5 were clearly defined and have been faithfully carried
6 out, for which the Chinese Authorities were and are
7 deeply grateful. The five intervening years had been
8 peaceful years, peace and good order had prevailed un-
9 disturbed, and the Chinese side could not be accused
10 of having violated any part of the Agreement. He
11 wished to repeat that in his submission, the Joint
12 Commission had been given specific duties which are
13 expressly mentioned in the Agreement for the cessation
14 of hostilities, and the Commission was not supposed
15 to be bothered with questions which go beyond the
16 scope of the Agreement. He contended that the ques-
17 tion of fortifications at Woosung, which was raised
18 by his Japanese Colleague, did in fact lie outside the
19 province of the Joint Commission, and he was sure
20 the members of the Joint Commission would agree with
21 him when he said that it was not the intention of the
22 Participating Friendly Powers to restrict the sover-
23 eignty of China in any way except as expressly provided
24 in the 1932 Agreement. In other words, although the
25 sovereignty of the area concerned around Shanghai had

1 remained to China, she had agreed not to exercise all
2 her sovereign rights in that area temporarily because
3 of the provisions of the 1932 Agreement."

4 I now skip to the next to the last paragraph
5 on page 4, beginning with the word "concluding."

6 "Concluding, Mr. Yui made a fervent appeal
7 for the removal of doubt and suspicion of China, and
8 reiterated his assertion that the points raised by his
9 Japanese colleague did not come within the purview
10 of the Joint Commission whose functions and duties were
11 expressly defined in the Agreement of May 5th, 1932."

12 MR. COMYNS CARR: Your Honor, at some stage
13 we shall have to read the remainder of Mr. Yui's re-
14 marks. I suggest it would be more convenient that
15 they be read now, but if my friend prefers to skip
16 them I cannot insist.

17 THE PRESIDENT: We leave it to you, Mr. Roberts.
18 Occasionally the prosecution obliged the defense by
19 reading more matter, but you need not be influenced by
20 that.

21 MR. ROBERTS: There is considerable repetition
22 in these minutes. I tried to read the explanation as
23 it applied to both sides to give a fair picture. If
24 there is any question about our intention, I have no
25 objection to reading the entire document.

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1 THE PRESIDENT: We don't urge you to do that.
2 Better read the parts marked and leave it at that.

3 MR. ROBERTS: I now proceed to page 5, the
4 third paragraph.

5 "The Japanese Government, as one of the most
6 interested parties, attached great importance to the
7 Agreement of 1932 and also to the continuance of the
8 Joint Commission. The importance and usefulness of
9 the Agreement is just as great at present as when the
10 Agreement was first brought into being some five years
11 ago. The Agreement for these reasons could not be al-
12 lowed to die a natural death, nor to be relinquished
13 unilaterally. It must also be in the interest of
14 those members of the Commission other than the Chinese
15 and Japanese delegates to see to it that the terms
16 of the Agreement were scrupulously observed at all
17 times by the parties concerned, for it must not be
18 forgotten that the strict enforcement of the Agreement
19 of 1932 is the only way to ensure peace and order in
20 Shanghai."

21 This is the rejoinder of Mr. OKAMOTO.

22 THE PRESIDENT: You have marked this to include
23 more than you read.

24 MR. ROBERTS: I have marked on my copy the
25 beginning on page 5, as I have stated, the third

1 paragraph, continuing to the top of page 6.

2 "The Agreement of 1932 stipulated in the
3 first place that the cessation of hostilities would be
4 rendered definite and that this cessation of hostili-
5 ties would be assured by preventing the Chinese forces
6 from moving into a certain district which is speci-
7 fied in its Annex I. In other words, the demilitar-
8 ized zone was thus created where neither of the parties
9 concerned could engage in hostilities in the future.
10 Moreover, the negotiations at the peace conference
11 in framing the Agreement undoubtedly envisaged the
12 cessation of hostilities as including the cessation of
13 various military preparations in the area concerned.

14 "The fortress at Woosung, now in question, was
15 destroyed by the Japanese forces during the Shanghai
16 Incident. Woosung was situated within the said de-
17 militarized area and any attempt on the part of Chinese
18 to restore the razed fortress, with possible replen-
19 ishment of its armament, could not but be construed
20 as a serious contravention of the Agreement of 1932.
21 He wished to emphasize particularly that such a project
22 would constitute a serious menace to peace and secur-
23 ity of the foreign controlled areas of Shanghai, and he
24 was sure the members of the Friendly Neutral Powers
25 would share his conviction."

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1 I now go to page 9, the second paragraph.

2 "The Chinese and Japanese delegations having
3 withdrawn, the representatives of the Participating
4 Friendly Powers discussed the situation, resulting in
5 the following decision which was read by the Secretary
6 to the Chinese and Japanese delegations after they
7 had rejoined the meeting.

8 "'The representatives of the Participating
9 Friendly Powers of the Joint Commission feel that they
10 are not in a position at the present time to express
11 an opinion on the conflicting interpretations of the
12 Chinese and Japanese delegations on the points raised
13 in the present issue.

14 "'However, they would enquire whether or
15 not as a gesture of conciliation and good will, and
16 without prejudice to his stand, the Chinese Civil
17 Delegate would be prepared to make any voluntary de-
18 claration as regards the composition and numbers of the
19 Peace Preservation Corps in the Shanghai area, and/or
20 on the question of any fortifications within the so-
21 called prohibited zone.'

22 "Responding, Mr. Yui said that speaking for
23 himself and the Chinese Military Delegate, he thanked
24 the Chairman and the neutral members for their kind-
25 ness in coming to the meeting, and for their consideration

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1 of the matters brought before it. As regards the
2 suggestion that he should make a voluntary statement
3 regarding the fortifications at Woosung, he regretted
4 to say that as his powers as the Chinese Civil Dele-
5 gate on the Joint Commission were limited, and as the
6 matter lies beyond the scope of the Joint Commission,
7 he could not say anything without the permission of
8 his government. However, this much he would say,
9 that nothing so far undertaken by the Chinese Authori-
10 ties (in the area concerned?) held behind it any hos-
11 tile intention or warlike preparation. He denied
12 that any warlike preparations had been made by the
13 Chinese Authorities as alleged by the Japanese Civil
14 Delegate and said he wished to repeat that the Chinese
15 Authorities were second to none in their desire and
16 efforts to ensure lasting and permanent peace and good
17 order in Shanghai."

18 I now read excerpts from exhibit No. 2517.

19 THE PRESIDENT: That is the one you have just
20 read.

21 MR. ROBERTS: 2516, I beg your pardon. Be-
22 ginning on page 1:

23 "The Chairman observed that he had convened
24 the meeting at the request of the Japanese Civil Dele-
25 gate. It seemed unnecessary to say that all the

1 members of the Commission hoped that hostilities would
2 be kept away from Shanghai, and that a peaceful set-
3 tlement of the present difficulties between the Chinese
4 and Japanese sides would be come to.

5 "Mr. OKAMOTO said that in spite of the state-
6 ments of the Chinese Civil Delegate to the contrary,
7 he had received definite information to the effect
8 that units of the Peace Preservation Corps since last
9 evening had taken up various positions in areas quite
10 close to the International Settlement. Moreover,
11 troops of the 88th Division were not at a position
12 of Haskell Road near the North Station, with the result
13 that the position today had taken suddenly a turn for
14 the worse. This heavy concentration of Chinese armed
15 forces all over the territory covered by the Truce
16 agreement of 1932, to say nothing of various points
17 in close proximity to the International Settlement,
18 has caused grave anxiety and fear of an unfortunate
19 clash between the Sino-Japanese forces. In the face
20 of this sudden entrance of Chinese armed forces the
21 Japanese Naval Landing Party who up to the present
22 had confined their activities to the protection of
23 Japanese nationals, would be obliged to take up suitable
24 protective positions. In these circumstances he thought
25 the duty devolved on the Joint Commission of taking

1 immediate steps towards averting the grave danger
2 threatened, and with this object in view he suggested
3 that the Joint Commission form an investigation party
4 composed of members of the Neutral Friendly Powers,
5 accompanied by both Chinese and Japanese Delegates, to
6 look into the state of affairs now obtaining in the
7 areas in question. He would like to add that this
8 was not a moment for discussion, rather a single moment
9 should not be lost. He would like to hear the views
10 of his esteemed colleagues on the matter.

11 "Mr. Yui, addressing the Chairman and Honorable
12 Members of the Joint Commission said in reply; after
13 listening to the address of his Japanese colleague he
14 was constrained to state that the attempt of the Japanese
15 side to make the Joint Commission serve its own purpose
16 was unwarranted, unreasonable and highly improper. The
17 Japanese delegation must know that the Joint Commission
18 was organized for the specific purpose of maintaining
19 peace and order in Shanghai, and not for aiding and
20 abetting Japan in carrying out her national policy
21 vis-a-vis China. His Japanese colleague seemed to
22 think that the neutral members of the Commission,
23 however just and impartial, could be made to serve as
24 their tools, to be used whenever they so desired, and
25 relegated to the background or a dark corner whenever

1 it suited their purpose to do so. The Japan (when
2 she) stationed armed forces at Paitzechao (8 character
3 bridge), an area far beyond the railway, and in the
4 neighborhood thereof, yet according to the aforesaid
5 agreement, the Japanese forces were supposed to be
6 withdrawn from that area. That breach of the Agree-
7 ment alone would ipso facto render it null and void
8 and ineffective. Certainly no agreement could be
9 valid which was only observed by one party to it, no
10 matter how scrupulously observed by one side. The
11 Chinese delegates submit, therefore, that the Japanese
12 side having violated the Agreement, they no longer had
13 the right to invoke that instrument. Again with refer-
14 ence to recent developments in Shanghai in consequence
15 of the unfortunate Hungjao Incident, he would like to
16 call attention to one phase of the question. While
17 his Japanese colleague, in his capacity as Japanese
18 Consul-General, was informing him that the Japanese
19 Government was willing to have the issue settled through
20 normal diplomatic means, and while the investigation was
21 still under way, there suddenly eventuated a big Japan-
22 ese naval concentration at Shanghai, and the Japanese
23 armed forces ashore were greatly increased. Armaments
24 and war supplies of all kinds were being quickly landed,
25 and according to reliable reports, further reinforcements

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1 were on the way. All these coercive measures could
2 not fail to menace the peace and order of Shanghai,
3 and constituted a serious threat to his country. In
4 such circumstances China had the right and was entitled
5 to adopt appropriate measures for self-defense,
6 which accounted for the present disposition of the Chi-
7 nese military units. He humbly submitted, therefore,
8 that the present tense situation in Shanghai had been
9 created because of the heavy Japanese naval concen-
10 tration, and the augmentation of the Japanese armed
11 forces ashore. China was acting only in self-defense
12 and could not be held responsible in any way.

1 "Responding Mr. OKAMOTO said that he would
2 like to point out again that this was not the time
3 for heated discussions and that not a single moment
4 should be lost. No useful purpose could be served by
5 argument on which side was responsible, etc. The great
6 thing before the Commission was to consider means of
7 averting an unfortunate clash of arms which was
8 immediately threatening. He wondered whether or not
9 his Chinese Colleague really wanted to avoid the armed
10 clash that was menacing Shanghai. If his Chinese
11 Colleague sincerely entertained such a desire he
12 ought to agree on the necessity of searching at once
13 for a suitable way of accomplishing it. He recalled
14 that only the previous night the Chinese Civil Delegate
15 had promised him to do his best to withdraw the
16 Paoantui from places where Japanese residents were
17 living or from positions close to the Headquarters of
18 the Naval Landing Party, yet this morning not only had
19 the Paoantui not been withdrawn but units of the
20 regular Chinese army had entered the prohibited zone.
21 His Naval Landing Party had not yet done anything in
22 preparation (to resist an attack?) but he wanted to
23 know at once if anything could be devised to avoid an
24 armed clash. He would like to hear the views of his
25 Chinese Colleague on the subject."

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1 Then we go to page 6, second paragraph.

2 "Mr. OKAMOTO observed that he wished to
3 emphasize his willingness to cooperate with the Chinese
4 delegates or with the Joint Commission in devising some
5 way to avert the threatened clash which seemed imminent.
6 That was his earnest intention and he hoped he would not
7 be misunderstood. He had already telegraphed to his
8 colleague in Nanking (Counsellor of the Japanese
9 Embassy) asking for his assistance in approaching the
10 Chinese Government to do everything possible to avert a
11 serious clash in Shanghai. He was going to do his
12 utmost to that end and he hoped the Joint Commission
13 would do something to help. Of course he and his
14 Chinese Colleague must do everything possible to assist
15 their respective governments to work out a solution and
16 they could have talked between themselves on the subject,
17 but at the same time he hoped it was quite proper to
18 ask the members of the Joint Commission to help as he
19 thought they could make a valuable contribution to the
20 maintenance of peace in Shanghai."

21 We go to page 7, second paragraph.

22 "Mr. Yui said he would like to make a few
23 further remarks. As mayor he had always done his utmost
24 to preserve peace and order in Shanghai and would con-
25 tinue to do so but he would have to repeat his opinion

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1 that the present difficulty could be solved only
2 between China and Japan, although no doubt the govern-
3 ments represented by the Neutral Friendly Powers on
4 the Joint Commission would always be glad to do some-
5 thing along the line of advising China and Japan to
6 come to terms. So he thought it was futile for the Joint
7 Commission to waste its efforts. He reiterated that
8 the Joint Commission could only base any action it
9 took, on the instrument which was the foundation of its
10 activities. Since that agreement had been violated
11 through the action of the Japanese side in stationing
12 forces at the 'Eight Character' Bridge as had just been
13 admitted by the Japanese Civil Delegate, the Japanese
14 side had no right now to invoke the agreement. He
15 again assured the meeting that in his capacity as Mayor
16 he would do his utmost to ameliorate the existing
17 situation with a view to ensuring peace and good order
18 in Shanghai to the benefit of the citizens of China,
19 Japan and other friendly Powers."

20 I now go to page 8, second paragraph.

21 "Addressing Mr. Yui the Chairman recalled that
22 the Chinese Civil Delegate had said that the solution
23 of the present situation lay with the Governments of
24 China and Japan. Did he mean by that statement that he
25 would refuse the help of the Joint Commission even if

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1 that Commission could do something to assist in avoid-
2 ing a clash?

3 "Replying Mr. Yui said he did not mean that.
4 He meant that as the Japanese side had violated the
5 1932 Agreement they did not now have the right to
6 invoke that compact.

7 "Mr. Gauss asked if Mr. Yui had made any
8 representations to the Joint Commission at the time
9 the alleged violation of the agreement took place last
10 year. Mr. Yui responded that he had made representa-
11 tions to the Japanese side at the time as he had
12 documents to prove. He submitted that under the agree-
13 ment there was no occasion to make representations to
14 the full commission unless there were 'doubts' arising.

15 "Mr. OKAMOTO asked if it was not a fact that
16 Mr. Yui did not object at the time. Mr. Yui replied
17 that he did not object at the time because he did not
18 want to disturb the friendly relations between China
19 and Japan which were then existing and also in the
20 interests of peace and good order. That was on record.

21 "Mr. OKAMOTO said that the Japanese navy owned
22 a piece of land in the vicinity of the 'Eight
23 Character' Bridge which he pointed out on a map.

24 "The Chairman remarked that at the last meeting
25 of the Joint Commission, Mr. Yui had disclaimed

1 any intention of regarding the Commission as defunct.
2 Would he therefore object to the good offices of the
3 Commission being exercised in the present instance?

4 "Mr. Yui observed that he only said he felt
5 such efforts would be futile.

6 "Mr. Davidson said it was apparent the situa-
7 tion was too serious for argument and so he would like
8 to know if anything could be done by the Joint Commission
9 or any of its members to assist in bringing about a
10 temporary settlement to last until a more permanent
11 settlement could be worked out by the parties concerned.
12 He would like to offer his services in any capacity
13 and he was sure his colleagues of the neutral Powers
14 would want to extend the same offer. A clash would be
15 against all their interests.

16 "Mr. Gauss said he would be glad to do anything
17 to assist either side.

18 "Mr. Yui remarked that he would welcome and
19 would be grateful for any efforts of the neutral Civil
20 members in their capacity as Consuls-General or they
21 could call them the 'Authorities concerned' and not
22 mention the Joint Commission.

23 "Mr. OKAMOTO said he wondered if it were
24 possible for the Commanders of the Neutral forces
25 stationed in Shanghai to meet together and as military

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1 officers work out some plan which they could recommend
2 to the Japanese and Chinese Commanders as a definite way
3 of avoiding a clash?"

4 I now turn to page 13, second paragraph.

5 "Mr. Gauss, after looking at the map asked
6 Mr. Yui if the Chinese detachment mentioned by Mr.
7 OKAMOTO could not be withdrawn to the other side of the
8 railway?

9 "Mr. Yui replied that the Chinese detachment
10 had the right to be there. He suggested that the
11 Japanese side might make some move.

12 "Mr. OKAMOTO remarked that he was informed
13 the Chinese detachment mentioned was 'uncontrolled'
14 and therefore might start an attack. He suggested
15 that if Mr. Yui was unable or unwilling to get into
16 touch with the Chinese Commander, that the neutral Civil
17 Delegates (either as such or in their capacity as
18 Consuls-General) do so, with a view to having the
19 detachment withdrawn.

20 "At this stage Mr. Yui and Comdr. TAKEDA
21 withdrew.

22 "Mr. Marchiori suggested that as a temporary
23 measure and in order to avoid a clash which seems to
24 be imminent with the Chinese forces occupying a posi-
25 tion at Haskell Road, a detachment of neutral forces

1 might be sent to occupy the sections of the settlement
2 boundary opposite that position so as to avoid the
3 necessity which the Japanese claim, of sending their
4 forces there. Mr. OKAMOTO assured Mr. Marchiori that
5 if that could be done the Japanese side would be satis-
6 fied and would not send their forces to that section.

7 "The other neutral members felt that this
8 would be a matter for the Defense Commanders to decide.
9 The American and British Civil Delegates said they
10 would inform their respective Commanders of that sug-
11 gestion by telephone."

12 You may cross-examine.

13 THE PRESIDENT: Judge Nyi.

14 JUDGE NYI: May it please the Tribunal,
15 the present witness is a diplomat of long standing--

16 THE PRESIDENT: You cannot address us.

17 JUDGE NYI: --American countries.

18 THE PRESIDENT: Proceed to cross-examine.

19 JUDGE NYI: May I just say one word?

20 THE PRESIDENT: Don't tell us something we
21 know already.

22 JUDGE NYI: I am only requesting--

23 THE PRESIDENT: You are out of order in saying
24 any word unless you explain what you are about to put
25 to us. Do you want to raise a point of law?

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1 JUDGE NYI: I want to--

2 THE PRESIDENT: Do you want to criticize the
3 witness?

4 JUDGE NYI: No, not at all.

5 THE PRESIDENT: What do you want to do?

6 JUDGE NYI: I am making this statement to
7 explain that if it would be possible and preferable,
8 that the witness be examined and be directed to answer
9 in English.

10 THE PRESIDENT: It is for the witness to
11 decide.

12 JUDGE NYI: May I make the request that the
13 Tribunal ask the witness if he would answer in English?

14 I think this was not without precedent in
15 regard to a previous witness, a Chinese witness.

16 THE PRESIDENT: We give the witness the
17 option. But I recollect that on one occasion when a
18 Japanese witness decided to speak in English we directed
19 him to speak in Japanese.

20 The witness may please himself. If he decides
21 to speak in English and we find it difficult to under-
22 stand him, we shall direct him to speak in Japanese.

23 JUDGE NYI: Thank you.
24
25

1 CROSS EXAMINATION

2 BY JUDGE NYI:

3 Q Mr. Witness, on page 2 under paragraph 5 of
4 your affidavit you say you received a report that China
5 was reinforcing the Paoantui and constructing trenches
6 and barbed wire entanglements and reconstructing the
7 Woosung Fortress. Where did this report come from?

8 A I received this report following my arrival to
9 assume my post in Shanghai from the Japanese Naval
10 Landing Party.

11 Q Have you made any effort to confirm this
12 report?

13 A I requested the calling of the meeting of
14 the Joint Commission in order to confirm this report.

15 Q Oh, you suggested that you want to have this
16 report confirmed in the meeting of the Joint Commission?

17 A Yes.
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1 Q Why didn't you investigate yourself before
2 you convened the meeting of the joint commission?

3 A I could not very well go to the fortress at
4 Woosung to make investigations myself.

5 Q But you did not only confine to the fortress
6 at Woosung; you did mention the reenforcement of Paoan-
7 tui and also the construction of barbed wire entangle-
8 ments, is that right?

9 A Yes.

10 Q So you didn't make any investigation at all
11 with respect of these points, did you?

12 A As the Japanese Consul General I could not
13 very well myself enter this special district and to
14 investigate military facilities -- military installa-
15 tions.

16 Q In the minutes of the meeting of the joint
17 commission, June 23, 1937, you said you sincerely
18 hope that the report was untrue and it turned out
19 that the Chinese delegate did deny this report. Is
20 that the reason why the third party members present
21 seemed not too pleased to intervene as you stated?
22 So you did entertain some doubt about the truth of
23 this report, did you not?
24

25 A When I received this report I, of course,
hoped that it would not be true; however, at the

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CROSS

1 meeting of the joint commission on the 23d of June
2 the committee members of the neutral powers did not
3 wish to become deeply involved or to intervene because
4 their interpretation of the efforts for a truce between
5 the Chinese and Japanese forces was not--

6 THE MONITOR: The committee members from the
7 neutral powers showed an attitude whereby they did
8 not wish to intervene in regard to the problem of
9 interpretation of the Cease Fire Agreement between
10 Japan and China. I believe that they wished on this
11 point to withhold any opinions at this juncture.

12 Viewed as a whole it was on this point that
13 the joint commission, as stated in the minutes, with-
14 held any opinion.

15 It seems that the translators are having
16 difficulty. I shall repeat that statement once more.

17 The fact that I said that the representatives
18 of the neutral powers did not seem to wish to inter-
19 vene was not because, as the prosecutor just said now--

20 The fact that I said that the representatives
21 of the neutral power did not seem to wish to intervene
22 I did not mean that as the prosecution has just said
23 or by taking into consideration the fact that I said
24 that I hoped the report was not true--

25 THE MONITOR: When I mentioned in my affidavit

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CROSS

1 that the representatives, representative, of the
2 neutral country did not wish to intervene in the
3 matter I did not mean that these representatives had
4 considered what I said in the meeting; in other words,
5 I had said that I wished the report was not true. I
6 did not mean that the representative of the neutral
7 country had considered these points and had replied
8 that they did not wish to intervene.

9 I meant that viewed from the general results
10 of the meeting held on that day the joint commission
11 will withhold its opinion with regard to the argument
12 which occurred between the Chinese and Japanese
13 delegates regarding the interpretation of the Cease
14 Fire Agreement. This appears in the minutes of that
15 meeting.

16 That is what I meant to say.

17 THE PRESIDENT: If you desire, Witness, you
18 may speak in English.

19 Q Did you take along with you some member of
20 the Naval Landing Party when you went to the meeting?

21 A Commander TAKEDA who was then senior staff
22 officer of the Naval Landing Party in Shanghai accompan-
23 ied me to that meeting.

24 Q And this was the man from whom you got this
25 report, is it?

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1 A Yes.

2 Q And he didn't try to help you to substantiate
3 his report of the meeting, did he?

4 A Commander TAKEDA had no opportunity to make
5 any statements at that meeting.

6 Q Was he qualified to speak?

7 A Yes.

8 Q The commission has not met for five years
9 and you brought out a charge which was not substan-
10 tiated by fact; was that the reason of disappointment
11 at the meeting as expressed by the neutral members of
12 the meeting?

13 MR. ROBERTS: I submit that the question is
14 very complex; partly argumentative, partly question,
15 and partly I am not sure what it is.

16 THE PRESIDENT: He appeared to assume a fact.
17 It was objectionable in that way but he went on to put
18 to the witness whether that was the fact which he
19 assumed, if I understood him correctly.

20 Did the commission think that you made an
21 unfounded charge; is that what you are trying to ask?

22 Did they, Witness?

23 THE WITNESS: I could not understand the
24 President's question very well. I should like to have
25 it repeated once more.

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1 THE PRESIDENT: Do not repeat it. If I
2 understand what the prosecutor is asking it is this:

3 Did the commission think that you made an
4 unfounded charge?

5 THE WITNESS: I do not think so.
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1 BY JUDGE NYI (Continued):

2 Q As you stated in your affidavit that they
3 were not too pleased, you doubtless suggested that
4 there was a sense of disappointment because you did
5 not substantiate your claim, allegation?

6 THE PRESIDENT: He has answered suffi-
7 ciently.

8 A I have not written such a fact in my
9 affidavit.

10 Q I did not say that you wrote about the
11 sense of disappointment, but you did say that
12 they were not too pleased. So I suggest --

13 MR. ROBERTS: I object, your Honor. As
14 your Honor suggests, the question has already
15 been answered sufficiently, I believe.

16 JUDGE NYI: I will not press it further.

17 Q Now on the same page, that is page 2,
18 under paragraph 5, the same paragraph, you men-
19 tioned the forbidden zone -- 6th line from the
20 bottom, page 2. Do you refer to any area as
21 provided in the Cease-Fire Agreement of May 5, 1932?
22

23 A Yes.

24 JUDGE NYI: Your Honor, this agreement of
25 May 5, 1932, is part of the exhibit, 2419. May I
have it shown to the witness so as to ascertain

1 whether this was the same agreement as he referred
2 to?

3 THE PRESIDENT: Show him that exhibit.

4 (Whereupon, a document was
5 handed to the witness.)

6 Q Have you seen it?

7 A Yes.

8 Q That is the agreement that you referred to?

9 A Yes, it is this.

10 JUDGE NYI: Your Honor, may the witness
11 also be shown the annexes, the maps, in order to
12 ascertain the locality of the troops?

13 THE PRESIDENT: You will have to refer to
14 an exhibit number.

15 JUDGE NYI: The same exhibit number.
16 They are annexes of the same exhibit, 2419.

17 THE PRESIDENT: He may have his attention
18 directed to any part of that exhibit or any annex
19 thereto.

20 MR. ROBERTS: I do not believe that the
21 maps that are referred to have been marked as a
22 part of this exhibit. However --

23 THE PRESIDENT: It is one whole exhibit.
24 There is no difficulty about that.

25 MR. ROBERTS: If they are to be marked I

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1 have no objection.

2 THE PRESIDENT: The Judges haven't
3 copies of the map.

4 Q Mr. Witness, do the maps indicate
5 the right location where the troops ought to
6 be?

7 A I cannot say definitely; I do not know
8 definitely by just glancing or looking on this
9 map. In connection with this matter there are
10 military representatives in the joint commission,
11 and the Commander, TAKEDA, whom I mentioned,
12 was one of these military representatives, and
13 with regard to the military terms of this truce
14 agreement I consulted Commander TAKEDA of the
15 Naval Landing Party. I should like to add that
16 these special districts are not clearly marked on
17 the annex of the truce agreement.

18 THE MONITOR: Clearly indicated in
19 the annex to the Cease-Fire Agreement.

20 Q Have you seen those maps before?

21 A I have never before seen the maps which
22 were just shown to me.

23 Q Have you brought them over to the meeting
24 of the joint commission where you argued on the
25

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1 violation of the Chinese authorities?

2 A No, I did not have any maps, but I be-
3 lieve that Commander TAKEDA had maps in his pos-
4 session.

5 Q But you say that TAKEDA didn't have a
6 chance to say anything at the meeting, didn't you?

7 A Yes.

8 THE PRESIDENT: Those maps are not
9 covered by the certificate attached to exhibit
10 2419.

11 JUDGE NYI: Excuse me, your Honor.

12 THE PRESIDENT: There is no evidence as
13 to their authenticity or accuracy at all.

14 JUDGE NYI: If we didn't put them in, if
15 the defense does not have an objection to having
16 them put in now, we will have them put in, and we
17 will complete the necessary procedure later.

18 THE PRESIDENT: Before we have a futile
19 discussion on that, let me read a memo from a col-
20 league.

21 "According to Mr. O. K. Yui, it was
22 quite true that due to the efforts of the partici-
23 pating friendly powers China and Japan had agreed
24 not to send their troops into the area concerned."

25 My colleague inquires: "Isn't that

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1 enough?"

2 Q Mr. Witness --

3 THE PRESIDENT: That is addressed to
4 you, Judge Nyi.

5 JUDGE NYI: I am going to ask the wit-
6 ness on another point not related to the maps.

7 Q Was it a fact that previous to 1932 the
8 Chinese troops could move around freely provided
9 they did not enter the International Settlement
10 and French Concession?

11 A I doubt very much whether this question
12 just put to me has any relevance to what I stated
13 in my affidavit. However --

14 THE PRESIDENT: It is not for you to take
15 objections. You leave that to the defense counsel.
16 Answer the question, if you can.

17 A I arrived in Shanghai in May of 1937,
18 and I was stationed there until March of 1938. I
19 have stated so in my affidavit. Therefore, I regret
20 that I am unable to reply to questions concerning
21 matters prior to that time.

22 Q With respect to the area in question, do
23 you mean that it was a demilitarized zone?

24 A Yes.

25 Q Does the term "demilitarized zone" appear

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1 in the agreement?

2 THE PRESIDENT: You need n't ask him
3 that. You have the agreement, haven't you?

4 We will recess for fifteen minutes.

5 (Whereupon, at 1045, a recess
6 was taken until 1100, after which the
7 proceedings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Judge Nyi.

4 BY JUDGE NYI (Continuing):

5 Q Mr. Witness, regarding the cease fire agree-
6 ment of May 5, 1932, do you know that a Chinese dele-
7 gate at the time of the negotiations has declared
8 that nothing in the agreement implies any permanent
9 restriction on the movement of Chinese troops in
10 Chinese territory?

11 THE PRESIDENT: Don't ask him that. Point
12 it out to us when you are summing up your evidence
13 or arguing the point.

14 Q Mr. Witness, where is the Paitzechao or
15 the Eight Character Brigade, or, to make it more
16 specific, was it in the zone under dispute?

17 A What do you mean by the zone under dispute?

18 THE PRESIDENT: A forbidden area, is it?

19 A (Continuing) I believe it was a forbidden
20 area with regard to the Japanese side. The Japanese
21 were not permitted to enter the zone.

22 Q Yes. My question was, was Paitzechao in
23 that area?

24 I Yes.

25 Q But you did admit that there was a detachment

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1 of Japanese soldiers in Paitzechao before the
2 hostilities of 1937, did you?

3 A It is just as I have said according to the
4 minutes of the joint commission.

5 Q Why you did not like to dwell long on this
6 topic of the Eight Character Bridge in the meeting
7 of August the 12th?

8 THE PRESIDENT: The question is wholly objec-
9 tionable in that form.

10 Q In the minutes of August 12 it said, "He did
11 not want to say much about the Eight Character Bridge
12 beyond remarking that since last year the Japanese
13 Naval Landing Party had stationed a small detachment
14 there consequent on a murder case which had caused
15 Japanese residents in the area to be uneasy about
16 their persons and property."

17 THE MONITOR: Can you give us a copy of the
18 document you are reading from. It is impossible for
19 us to translate the reading --

20 JUDGE NYI: That was the bottom of page 6 of
21 exhibit 2516.

22 Q (Continuing) My question is, did you notify
23 the Chinese authorities or the joint commission before
24 you sent this detachment?

25 A The stationing of a small Japanese detachment --

1 the sending of a small Japanese detachment to Paitzechao
2 or the Eight Character Bridge happened before my
3 arrival in Shanghai. This took place in the year pre-
4 vious to my arrival in Shanghai and, accordingly, I
5 do not know what steps were taken or what arrangements
6 were made.

7 Q Are you aware that any such notice had been
8 given by the Japanese authorities?

9 A I do not know.

10 Q Article 3 of the cease fire agreement provided
11 that the Japanese troops should withdraw to their
12 original positions in the settlement and extra-
13 settlement roads. Now, where was the headquarters
14 of the Japanese naval landing party in Shanghai. In
15 which part of the city?

16 A It is located in Hongkew, an area of Shanghai
17 where numerous Japanese lived.

18 Q Was it on an outside road? What I mean is
19 extra-settlement road. That is quite a technical term.

20 A I do not remember very well such small
21 details.

22 Q This is quite an issue in Shanghai, was it,
23 between the authorities, Chinese authorities and the
24 foreign authorities, as to the right of building roads
25 on the Chinese area?

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1 MR. ROBERTS: I object on the ground that
2 I believe it is outside the scope of the examination.
3 There was nothing brought up about the right of build-
4 ing roads nor any question about the headquarters of
5 the landing party at the time.

6 THE PRESIDENT: The objection is overruled.

7 Q Could you recall, Mr. Witness, whether it was
8 or not?

9 THE MONITOR: Can you explain that "it" please,
10 Judge Nyi? Do you mean --

11 JUDGE NYI: The headquarters of the naval
12 landing force.

13 A Having been stationed in Shanghai, naturally
14 I knew very well where the headquarters of the naval
15 landing party were located, but I believe the point
16 of the prosecutor's question was whether it was
17 located in the extra-settlement road or not. This is
18 a matter which I cannot answer with accuracy, and I
19 have said that before.

20 Q Now, you have stated in the middle of page 5
21 of your affidavit that a Chinese mayor phoned you
22 two or three times a day requesting you to restrain
23 some acts on the part of your marines. Can you tell
24 us what are these acts of your marines which the
25 Chinese mayor thought should be restrained?

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1 MR. ROBERTS: Can we have it indicated that
2 the sentence also has the word "and so forth" at the
3 end?

4 THE PRESIDENT: Not unless the prosecutor
5 wants it. The allegation is against the marines and
6 he can confine his cross-examination to that if he
7 wants to.

8 MR. ROBERTS: Well, I object on the ground
9 that he is only quoting part of a sentence.

10 THE PRESIDENT: You might object on the ground
11 that he isn't putting the whole of the document to him.

12 Q Will you please answer my question?

13 A It is a fact that the mayor cooperated whole
14 heartedly with me ever since the tea party which was
15 held on the 15th of July. It is also a fact that on
16 certain days he called me by telephone sometimes as
17 much as two or three times a day. The reason for his
18 calling me by telephone was with regard to the maneuvers
19 and actions of the Japanese naval landing party. The
20 mayor said that in view of the situation existing
21 that he desires to have such maneuvers and actions by
22 the Japanese forces stopped because it was feared that
23 such acts would irritate the Chinese masses.

24 Q Did you agree to that?

25 A Yes, I did agree.

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1 Q Did you restrain these acts?

2 A I was of the same opinion as Mayor Yu and
3 each time that he called me by telephone I supported
4 his views and brought the matter up to the commander
5 of the naval landing party expressing or suggesting
6 that such maneuvers be restrained as much as possible.

7 Q Did the commander accept your suggestion?

8 A The commander of the naval landing party
9 entertained about the same opinion as we did and he
10 did all he could to restrain such acts.

11 Q You mention the maneuvers and other acts.
12 Now what are the other acts?

13 A There were many incidents which I recall
14 happened at that time, one in particular when a sailor
15 named MIYAZAKI had disappeared. Because of this
16 disappearance of the sailor and emergency guard patrol
17 was established. That is what I mean by other acts.

18 Q What does that disappearance have anything
19 to do with the acts which the Chinese would like to
20 restrain?
21

22 A As a result of the disappearance -- of this
23 incident, this disappearance incident -- emergency
24 measures were taken to guard against such things.
25 It was this measure of taking extraordinary measures
which the Chinese authorities wished restrained because

1 it would irritate the Chinese people.

2 Q Was MIYAZAKI afterwards discovered?

3 A Yes.

4 Q Was it also a fact that prior to the incident,
5 OYAMA incident which you mention, that parties of
6 Japanese had visited the neighborhood of the airdrome,
7 Hongchiao airdrome, and had been turned back by the
8 Chinese?

9 A I do not know of such fact.

10 Q Could you recall that written representations
11 had been presented to you by the city government against
12 such acts?

13 A I do not remember such a fact.

14 Q To refresh your mind further, did the mayor
15 also remind you of the fact right after the occurrence
16 of the OYAMA incident?

17 A The mayor did not say anything to me in
18 regard to such an occurrence.

19 Q Where was the Hongchiao airdrome? In what
20 part of the city?

21 A If I had a map here I could easily point this
22 out for you, but I believe it was either in some direc-
23 tion, that is, west or south of Shanghai. I know the
24 place very well but I cannot reply with accuracy just
25 where it was located, but I believe it was some where

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1 near the extra-settlement road.

2 Q How far is it from the headquarters of your
3 landing party?

4 A I have no idea as to the distance between
5 these two points.

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1 Q In what part of the city -- I mean in
2 which direction -- is the naval landing party?

3 A It will be sufficient to say it is
4 located in Hungjao.

5 Q That is not what I want. You have told us
6 that already. I want to know the direction.

7 A I don't know whether the direction is of
8 any importance or not; but assuming that the Bund
9 is located in the center of Shanghai, I would say
10 that it was in a northwesterly direction.

11 Q Is the Bund the center of Shanghai?

12 A I don't know whether it is the center or
13 not. I just said assuming that it were the center.

14 Q If I may refresh your mind, Hungjao is
15 on the southwest, as you have stated, and the
16 naval landing party was on the northeast, was it?

17 A I didn't say northeast. I thought I said
18 northwest.

19 Q They are very far away, are they? How
20 much time would it take on an automobile?

21 THE PRESIDENT: Traveling how many miles
22 an hour?

23 A As I have said before, I don't know exactly
24 the distance between the Hungjao and the naval --
25 I have no idea as to the distance between the

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1 naval landing party and Hungjao, and I therefore
2 cannot state accurately any more than that.

3 Q What time, to be exact, did the OYAMA
4 Incident occur -- the time of the day?

5 A I know that the Incident occurred on the
6 9th of August -- on the afternoon of the 9th of
7 August, 1937, but I am not -- I don't know the
8 exact time, since I was not on the spot.

9 Q Can you tell me whether it was early in
10 the afternoon or late afternoon?

11 A I recall that I had received reports that
12 it occurred towards evening, but I am not certain
13 on this point also.

14 Q On what mission was OYAMA on that day at
15 that particular spot?

16 MR. ROBERTS: I object to it on the ground
17 that this is ou' ide of the scope of the examina-
18 tion. I also want to advise the Court that a
19 later witness will be put on with respect to this
20 Incident.

21 THE PRESIDENT: Objection overruled.

22 A I don't know what the mission of OYAMA, who
23 was Lieutenant at that time -- I don't know what his
24 mission was.

25 THE MONITOR: Who was sub-Lieutenant at

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1 that time. As a matter of fact, I don't know whether
2 he had a mission or not.

3 Q You didn't make any inquiry afterwards?

4 A I didn't make any special investigations
5 concerning this point.

6 Q What do you mean by special investiga-
7 tion? Did you conduct an ordinary investigation?

8 A No, I didn't do that either.

9 Q Exactly where was he killed? Was he killed
10 in the HUNGJAO area?

11 A Immediately after this incident occurred
12 an examination was held on the spot, with the
13 naval landing party and a member of the Japanese
14 Consul General participating. Therefore, I be-
15 lieve that there was a report of this investigation
16 at that time.

17 THE MONITOR: There should have been a
18 report.

19 A (Continuing) Of course I don't recall the
20 small details of this report.

21 Q Could you recall that he was killed in an
22 attempt to enter the area?

23 A According to my recollections, on that
24 night, that is, the night of the 9th of August,
25 Mayor Yui rushed over to my place and told me that
sub-Lieutenant OYAMA and another seaman tried to force

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1 their way into the Hungjao area, and in spite of
2 the fact that they were stopped they killed a Chinese
3 soldier with a revolver; and Mayor Yui further ex-
4 plained that because of this, OYAMA and this other
5 seaman were, on the contrary, that is, were -- they
6 were shot at by the Chinese.

7 THE MONITOR: They were shot to death by
8 the Chinese.

9 A (Continuing) But according to a report I
10 received from the naval landing party after that,
11 it was made clear that neither sub-Lieutenant OYAMA
12 or the seaman possessed a revolver, and according
13 to the information I received, the report of Mayor
14 Yui was in error.

15 THE MONITOR: "According to the report I
16 received" instead of "information."

17 A (Continuing) I should like to add that on
18 this point Commander TAKEDA, who was the senior
19 staff officer of the landing party at that time, is
20 well informed and that no doubt he will, perhaps,
21 be better able than I to explain these points, since
22 I understand he is expected to take the stand later.

23 Q You mentioned on page 7 that the 87th and
24 88th Divisions of the Chinese Army had arrived at
25 Shanghai North Station. How did you know that they

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1 were the 87th and 88th Divisions?

2 A This also is information that I received
3 from the naval landing party and from the naval
4 authorities, and I believe that these reports are
5 accurate.

6 Q You stated on page 7 of your affidavit that
7 an official reported to you that the Mayor could do
8 nothing. Who was that official?

9 A This was KAWASAKI, who was consular attache
10 and who was working under me.

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1 Q Since you attach very much importance to
2 the matter, why didn't you talk to the Mayor your-
3 self?

4 A I was very busy on that day and on the
5 morning I had many things to do. For instance --

6 THE MONITOR: The witness said: "For
7 instance --".

8 A (Continuing): The Japanese workers at the
9 Sino-Japanese mills -- textile mills in Woosung
10 had to be reduced. Many important persons were
11 constantly calling upon me and therefore, I, myself,
12 could not answer the telephone personally. This
13 was done by my secretary, KAWASAKI. I could not
14 make the telephone calls personally myself. I
15 had to leave this to my secretary, KAWASAKI.

16 Q Besides these things, is there anything
17 more important than to contact the Chinese Mayor?

18 THE PRESIDENT: We do not want to hear
19 any more about it. It is not incredible.

20 Q When the joint commission met in the
21 afternoon, did you verify the report of the State
22 official who quoted the Mayor saying, "Nothing could
23 be done"?

24 A The meeting of the joint commission on
25 that day was held in an atmosphere of tension, and

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1 I did not -- I could not verify -- I did not have
2 the opportunity to verify or confirm this report;
3 but it was my impression that Mayor Yui enter-
4 tained the attitude that since matters had come to
5 such a situation, there was nothing else to do.

6 THE MONITOR: Nothing else he could do.

7 A (Continuing) Therefore, I do not believe
8 it was necessary to confirm the report.

9 Q On page 9 of your affidavit you mention
10 the firing of the Chinese plainclothes soldiers
11 from the China Press Building and the exchange of
12 shots at Patsuchiao. Where was the China Press
13 Building?

14 A It was located comparatively near the
15 naval landing party.

16 Q Was it in the Settlement -- International
17 Settlement?

18 A Such questions have been put to me
19 frequently prior to this, but as I said before,
20 I am not able to state accurately just where in
21 Shanghai, which is so large, where a certain -- where
22 the boundary of the Settlement begins and where
23 it ends. Although I served in Shanghai as Consul-
24 general for one year, I am not -- I cannot state
25 with accuracy just where each of these were located.

1 JUDGE NYI: I thought that it was within
2 your official duty and I thought your failure to
3 recollect in one instance does not exclude the fact
4 that you might remember in another instance.

5 However, I am not making a comment. I
6 am merely saying why I put the question.

7 MR. ROBERTS: I submit that it is a
8 comment, and I ask it be struck.

9 THE PRESIDENT: He could have said, "Didn't
10 your duty require you to know?" and left it at
11 that instead of going roundabout.

12 Q Now, on whom did they fire?

13 A I believe Commander TAKEDA would be better
14 fit -- suited to answer this question, but as I
15 recall, the plainclothes soldiers from the China
16 Press fired on members of the naval landing party.
17 This was the report I got at that time from the
18 naval landing party.

19 A With regard to Patsuchiao, the Eight-
20 Character Bridge, I recall not snipers but members
21 of the regular army fired. I believe they fired
22 cannons. That was the report I got from the naval
23 landing party.

24 Q I have not asked you about Patsuchiao yet.
25 Now was there any investigation into the

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1 matter of the firing in the China Press Building?

2 A No such investigation was made by myself
3 as the Consul-general, but I believe that it was
4 so done by the naval landing party.

5 Q Was it done in collaboration with the
6 settlement authorities?

7 A I believe that at that time the Sino-
8 Japanese dispute -- clash was a large one and
9 chaos -- confusion resulted, and I believe that
10 no report -- investigation could have been made
11 under such circumstances with accuracy. Therefore,
12 there is no fact that either the naval landing
13 party or the Settlement authorities contacted me
14 with a view to conducting such an investigation.

15 Q But you say that the firing was done by
16 the Chinese plainclothes soldiers. How was it
17 established that the Chinese fired?

18 A I am stating that it was in accordance
19 with reports I had received from the naval landing
20 party.

21 Q Do you know how they got the report?

22 A I do not know where the naval landing party
23 got their reports, but I am sure that they have
24 their own organization structure, and the fact that
25 they would know immediately after they had been fired

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1 upon who had fired upon them. I am stating that
2 it was a fact that I had received a report from
3 the naval landing party.

4 THE PRESIDENT: We will adjourn until
5 half-past one.

6 (Whereupon, at 1200, a recess was
7 taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

S U E M A S A O K A M O T O, called as a witness on behalf of the defense, resumed the stand and testified through Japanese interpreters as follows:

CROSS-EXAMINATION

THE PRESIDENT: Judge Nyi.

BY JUDGE NYI (Continued):

Q Mr. Witness, you have narrated the China Press incident and the shooting of Paitzechao in one sentence on page 9. Do you suggest that there was any connection between these two?

A I have stated in my affidavit that the clash between the Chinese and the Japanese occurred, unfortunately, on the 13th, and in that sense I believe that these two incidents are related.

Q Exactly what hour of the day did the China Press happen?

A I do not know the exact time; I don't remember.

Q Do you recall the exact hour of the time the shooting at Paitzechao occurred?

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1 A I don't know the exact time. It is that on
2 the 13th, that is, the afternoon of the 13th, shots
3 were fired on the naval landing party from the di-
4 rection of Paitzechao, the Eight Character Bridge.

5 Q Could you explain to me what is the relation
6 between the two? How are they related?

7 A The only connection is that in the morning
8 plain-clothes men fired from the China Press building,
9 and in the afternoon full-scale shooting took place
10 from the direction of Paitzechao; that is, the firing
11 was from cannons against the naval landing party.
12 In this connection only is there any relation.

13 Q Was there anything which happened in between
14 so that you can see where the connection comes around?

15 A No, not particularly.

16 Q Then, I am to take it that you could not give
17 me an exact picture as to the connection between the
18 two?

19 A I do not understand the gist of the question
20 very well. But on that day I was working under a very
21 tense atmosphere, and I was in receipt of reports from
22 the naval landing party hourly. It is true that I
23 received a report from the naval landing party that
24 firing from the China Press building had actually taken
25 place. In the afternoon firing, cannon fire, came

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1 from the direction of Paitzechao. That is what I am
2 saying; that, and only that.

3 Q This morning you told us that you did not
4 know how OYAMA happened to be around the Hungjao dis-
5 trict. Was it a fact that you had contacted the
6 Chinese mayor right after the incident?

7 A Yes, it is a fact. I did not request the
8 mayor to call me, but he rushed to my office on that
9 evening late, it was very late in the evening, and
10 explained to me the details of the incident.

11 Q Was it also a fact that someone on the Chinese
12 side also called at the Japanese Naval Attache in an
13 attempt to settle the incident satisfactorily?

14 A That I do not know.

15 Q Was it a fact that you expressed surprise
16 to the mayor because no officer or man of the naval
17 landing party had been given order to go out on that
18 day?

19 THE MONITOR: Judge Nyi, when you say "go out,"
20 go out to the airfield or just go out of the barracks?

21 JUDGE NYI: Go out of the barracks generally.

22 A I do not recall this point also.

23 Q So the question how OYAMA was around this
24 district had never occurred to you, is that right?

25 A I recall what happened at that time very

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1 clearly. On the afternoon of the 9th, I believe it
2 was towards evening, the Japanese detachment stationed
3 at Lunghua telephoned to my consulate-general. This
4 telephone call informed me that the Japanese and
5 Chinese forces were firing against each other at
6 Hungjao.

7 Immediately after receiving this report I
8 telephoned to the senior staff officer of the naval
9 landing party, TAKEDA, and requested that he rush to
10 the scene to find out just what was taking place.

11 At this time I telephoned to the naval landing
12 party at least twice, and as a result the naval landing
13 party at first stated they did not believe what I had
14 reported, saying that such a thing could not occur.
15 Due to the fact that I called more than once, that is,
16 repeatedly, the naval landing party finally sent a
17 person to the spot and thus found out of the incident
18 for the first time.

19 What I have stated is the truth of this
20 incident.

21 Q So it was a surprise to the Japanese naval
22 landing party authorities?

23 A I believe so. At least when I telephoned
24 to the naval landing party headquarters they expressed
25 surprise, saying that such an incident could not have

OKAMOTO

CROSS

1 occurred. That is a fact that they said so.

2 Q On page 2 of your affidavit under paragraph
3 4 you stated: "There was a gloomy and uneasy fore-
4 boding about Sino-Japanese relations even in Shanghai
5 over stormy indications caused by the North China
6 situation." That was before the Marco Polo Bridge,
7 is it?

8 A Yes.

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1 Q What were these stormy indications?

2 A I arrived at my post in Shanghai on the 8th
3 of May. It was an important task of mine as consul-
4 general to seek to maintain relations of harmony
5 between China and Japan in the area around Shanghai.
6 In the Shanghai area there was a Japanese population
7 of about 30,000. Economically, there were various
8 enterprises and various interests which were of con-
9 siderable importance. Accordingly, from my deep sense
10 of responsibility I felt it was my duty to somehow
11 improve Sino-Japanese relations in and around Shanghai.

12 But the situation in North China did not
13 permit of any optimism as to its future. Therefore,
14 if by any chance Shanghai also would become the scene
15 of strife, that was my greatest anxiety. It is my
16 true feeling that I should be determined to exert my
17 sincere and earnest efforts to prevent the occurrence
18 of any untoward incidents in Shanghai.

19 THE PRESIDENT: Haven't we heard enough of
20 this?
21

22 Q I was about to ask that thus far you haven't
23 answered my question. What were the indications, stormy
24 indications, in North China?

25 A Are you asking about the stormy indications
in North China?

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1 THE PRESIDENT: You have been asked twice
2 about them.

3 Q Shall I ask the third time?

4 THE PRESIDENT: You use the expression your-
5 self in your affidavit. Perhaps you have forgotten.

6 THE WITNESS: What I said was that the stormy
7 indications in North China might spread to Shanghai,
8 and I was greatly concerned about it.

9 THE PRESIDENT: What do you mean by "stormy
10 indications"?

11 THE WITNESS: The term "stormy indications"
12 in the English translation of my affidavit perhaps may
13 not be an accurate English translation of what I meant
14 to say in the original. However, what I felt, what
15 I meant to say was this situation of uncertainty
16 which was prevalent in North China, a situation of
17 restlessness and uncertainty which prevailed in North
18 China, a situation in which anything might happen.

19 Q You say that you came in May of 1937. And
20 was there any oral instruction given to you in regard
21 to the policy to meet the situation in China?

22 A No, not especially.

23 Q There was a general instruction?

24 A No, there were no general instructions, either.

25 Q Now, after your arrival, or during your term

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1 ~~of office as consul-general in Shanghai, have you~~
2 received any dispatch from the Foreign Office with
3 regard to the policy to be followed in China?

4 A No, I did not receive any instructions con-
5 cerning general policies. However, after the outbreak
6 of the Marco Polo Incident I received telegraphic dis-
7 patch from the then Foreign Minister HIROTA instructing
8 me that--

9 THE PRESIDENT: No, you can't give that. You
10 weren't asked for that. At least I understood you
11 were not asked for that.

12 Q At this juncture--

13 THE PRESIDENT: You can let in by cross-
14 examination things you can have excluded in examination
15 in chief.

16 Please repeat the question put by counsel
17 immediately before I made that observation; the court
18 reporter, please.

19 (Whereupon, the question was read by
20 the official court reporter as follows:

21 "Q Now, after your arrival, or
22 during your term of office as consul-general
23 in Shanghai, have you received any dispatch
24 from the Foreign Office with regard to the
25 policy to be followed in China?"

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CROSS

1 THE PRESIDENT: He wasn't asked for contents.
2 If he were, I would let him answer.

3 JUDGE NYI: I do like to know what are the
4 contents.

5 THE MONITOR: Contents of the instruction?

6 JUDGE NYI: Yes, which he got in China.

7 THE WITNESS: I replied that there were no
8 instructions as to general policy.

9 THE PRESIDENT: You said there were after
10 the Marco Polo Bridge Incident. You are asked to
11 tell the contents of that. I am not going to stop you.

12 Q Do you know that at a meeting of the four
13 ministers on the 16th of April, 1937, policies were
14 decided with regard to North China?

15 MR. ROBERTS: If your Honor please, the
16 witness hasn't been given an opportunity to answer
17 the last question.

18 THE PRESIDENT: If he doesn't want the answer
19 he needn't get it.

20 We don't forget the attitude of the prosecu-
21 tion during the examination in chief; but we are not
22 particularly concerned whether that attitude has
23 changed during the cross-examination, except that it
24 calls for comment. The Tribunal's time is wasted
25 during examination in chief on having a certain point

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1 sustained, only to be abandoned in cross-examination,
2 and we resent being treated in that way.

3 MR. ROBERTS: I merely wanted to point out
4 that there was a question which was unanswered and
5 which was not withdrawn.

6 THE PRESIDENT: It is for counsel cross-
7 examining to say whether he wants his question answered
8 or not.

9 Q I will withdraw the former question, but I
10 do want you to answer the last.

11 A I know nothing about the Four Ministers'
12 Conference which took place on the 16th of April.

13 JUDGE NYI: That concludes my cross-examination.
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1 THE PRESIDENT: Mr. Roberts.

2 REDIRECT EXAMINATION

3 BY MR. ROBERTS:

4 Q Mr. OKAMOTO, when you stated that the
5 Chinese troops were to remain in their present
6 position were you referring to any particular art-
7 icle in the May 5 agreement?

8 A In what event? In what instance?

9 Q You testified and I believe also stated in
10 the minutes of the joint meeting that the Chinese
11 troops were to remain in their present position.

12 A Yes, it was in accordance with the Cease
13 Fire Truce signed on the 5th of May 1932 that the
14 Japanese be restricted to the areas specified.

15 THE MONITOR: "Japanese" is omitted there;
16 "that the troops remain in this district specified."

17 Q I ask were you referring to any particular
18 article in that agreement?

19 A I am referring to article 2 of the Cease Fire
20 Truce.

21 Q Now, in the minutes of the meeting held on
22 August 23 on page 8 you mention the fact that the
23 Japanese Navy owned a piece of land in the vicinity
24 of the 8th Character Bridge.

25 THE MONITOR: Mr. Roberts, are you sure it is

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1 23 of August? I have the 12th of August and 23d of
2 July.

3 MR. ROBERTS: I beg your pardon; 12th of
4 August.

5 A Yes.

6 Q And is that the vicinity where the small
7 detachment of marines was stationed?

8 A Yes.

9 Q Do you know how many men were in that
10 detachment, Mr. OKAMOTO?

11 A I have heard that there were only five or
12 six; merely several in that small detachment -- several
13 men.

14 MR. ROBERTS: That is all. May the witness
15 be excused on the usual terms?

16 THE PRESIDENT: You want this witness released
17 on the usual terms. He is at liberty accordingly.

18 (Whereupon, the witness was excused.)

19 MR. COMYNS CARR: Your Honor, would it be
20 convenient before we leave the minutes which were
21 introduced during the evidence of this witness that
22 we should read those omitted parts which we think
23 ought to be read?

24 THE PRESIDENT: When the defense asked for
25 that concession we did not give it. You can give

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1 those in rebuttal perhaps. We are going to treat
2 you both alike.

3 Mr. Roberts.

4 MR. ROBERTS: We now call the witness
5 TAKEDA, Isamu.

6 - - - -

7 I S A M U T A K E D A, called as a witness on
8 behalf of the defense, being first duly sworn,
9 testified through Japanese interpreters as follows:

10 DIRECT EXAMINATION

11 BY MR. ROBERTS:

12 Q May we have your name and address, please?

13 A My name is TAKEDA, Isamu. My address is
14 Kanagawa Prefecture, Katose-machi, Minamihama No. 2932.

15 MR. ROBERTS: May the witness be shown defense
16 document No. 1136.

17 Q Please examine this document and tell us
18 whether or not it is your sworn affidavit.

19 A There is no mistake. This is my affidavit.

20 MR. ROBERTS: I offer in evidence No. 1136.

21 THE PRESIDENT: Mr. Comyns Carr.

22 MR. COMYNS CARR: Your Honor, we do not pro-
23 pose to object to this affidavit as a whole. There
24 are a number of passages in it which are objectionable
25 on the same grounds on which I objected to passages

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1 in the affidavit of Mr. OKAMOTO.

2 THE PRESIDENT: You had better indicate
3 them as the affidavit is read.

4 MR. COMYNS CARR: Your Honor, I was going
5 to suggest it would take longer to object to them
6 than to read them and I am quite content to leave it
7 to the Tribunal to reject them for itself; but there
8 are two whole paragraphs, No. 4 and No. 12, in which
9 this witness gives a version of the two meetings of
10 the joint commission of which we have already had
11 the minutes, and I submit that those are mere repe-
12 titution and should not be read.

13 MR. ROBERTS: I submit that they are short,
14 concise statements that he was there and practically
15 a summary of what happened in a few sentences.

16 THE PRESIDENT: Yes, proceed to read. We
17 will give our decision as you come to them.

18 The document is admitted on the usual terms.

19 CLERK OF THE COURT: Defense document 1136
20 will receive exhibit No. 2518.

21 (Whereupon, the document above
22 referred to was marked defense exhibit
23 No. 2518 and received in evidence.)

24 MR. ROBERTS: I shall read exhibit No. 2518
25 but I first want to point out several typographical

1 errors pursuant to an errata sheet issued thereafter:

2 On page 1, line 13, "12th Showa" should be
3 "11th Showa," and "13th Showa" should be "12th Showa";
4 same page, line 15, "14th Showa" should be "13th Showa."
5 On page 8, line 5 should be changed from "77th" to
6 "87th" division and "78th" should be "88th" division;
7 and in the same paragraph on the last line between
8 the words "following" and "defense" the word "the"
9 has been inserted.

10 (Reading): "(1) I am a former rear-admiral.
11 From December 1936 (11th Showa) till December 1937
12 (12th Showa) I was senior staff officer of the
13 Shanghai special landing force and continued in
14 office from that date till December 1938 (13th Showa)
15 as chief of staff."

16 THE PRESIDENT: I suppose the witness con-
17 firms those amendments which you have just asked us
18 to make?

19 MR. ROBERTS: He called them to our attention
20 before the corrections were made.

21 (Reading continued): "(2) As I was senior
22 staff officer at the time of the Sino-Japanese clash
23 in Shanghai on August 13th I was informed of the
24 causes of the outbreak of the incident and of its
25 progress. I did my utmost to prevent an incident

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1 occurring in Shanghai, but the repeated efforts of
2 the Japanese proved of no avail and despite the
3 prayer of third party nationals and Chinese residents
4 in Shanghai external pressure caused war to break out.

5 "(3) The prime causes of this incident are
6 the Chinese violation of the Sino-Japanese agreement
7 of May 5, 1932, in the increase of forces, consolidation
8 of defenses and construction of military installations
9 in the prohibited zone and their boast to wipe out
10 at one blow the Japanese landing force and Japanese
11 residents, the gradual encirclement of the Japanese
12 landing force and Japanese residents, the gradual en-
13 circlement of the Japanese sector, their general
14 attitude of defiance and challenge. The force of the
15 Peace Preservation Corps had been determined by the
16 armistice agreement at 2,000 and at first had been
17 despatched from Peiping to be stationed at Shanghai.
18 But from about 1936 onwards the force of the Peace
19 Preservation Corps was gradually increased in violation
20 of the armistice agreement till they were equipped
21 with small cannons, this again in violation of the
22 agreement, before the outbreak of the Marco Polo Bridge
23 Incident on 7th July 1937." --

24 THE PRESIDENT: Mr. Comyns Carr.

25 MR. COMYNS CARR: Your Honor, I think I should

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1 point out that contrary to the witness' statement
2 there is not a word in the agreement about either
3 the size of the Peace Preservation Corps or their
4 armament.

5 THE PRESIDENT: We will decide whether the
6 agreement is in conformity with that evidence or not.

7 MR. ROBERTS: (Reading continued) "Meanwhile
8 military installations such as pillboxes and barbed
9 wire entanglements were constructed inside the pro-
10 hibited zone. The barbed wire entanglements were so
11 set up as to encircle the Japanese area and vicinity,
12 while the pillboxes were erected at various points
13 inside the prohibited zone. A typical example of an
14 open-typed pillbox was the one built on the western
15 edge of Kiangwan Chin and representative models of
16 the camouflaged regular type were those built in the
17 vicinity of Hungjao aerodrome and those found at
18 various points constructed by utilizing farm houses.
19 Complete pillboxes were being gradually constructed.

21 "However peaceful conditions still prevailed
22 at this time and when we met the Peace Preservation
23 Corps units on the road greetings were mutually exchanged
24 and officers of the two forces were on a footing where
25 they would joke and drink together.

"(4) On 23d June 1937, (12th Showa), at the

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1 request of Consul General OKAMOTO a committee meeting
2 based on the Armistice Agreement concluded on May 5,
3 1932 (7th Showa), was convened at the French Consulate
4 General. I attended the same meeting in the capacity
5 of military committee member for the Japanese side.
6 The object of this committee meeting was the investi-
7 gation of the facts of the construction of military
8 installations especially of the alterations and repair
9 of Woosung Fort and the increase of troops. However
10 no conclusions was arrived at, and the investigations
11 proved fruitless.

12 "(5) With the outbreak of the Marco Polo
13 Bridge Incident on 7th July in Northern China, things
14 began to take on a new aspect.

15 "That is, from about this time, the 87th and
16 88th divisions consisting of 30,000 men and considered
17 crack troops of the Nanking Government began to occupy
18 the prohibited zone fitted out in dark blue uniforms.
19 At that time the uniform of the regular army was of
20 khaki color, these of the Peace Preservation Corps
21 being light yellow, but these troops now began to
22 filter in specially fitted out in dark blue. These
23 divisions were thoroughly instructed in Japanese
24 resistance and anti-Japanese education, very strong in
25 their combat consciousness and ready for combat with

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1 the Japanese. Simultaneously with the moving in of
2 the above troops the Chinese began hurried construction
3 of installations and positions around the Settlements.

4 "(6) Shortly thereafter a new phase was
5 entered upon which was radically different from the
6 situation in the early days of August and may be
7 characterized as an outgrowth of the Kuling Conference
8 held by the Chinese High Command at that time. Namely,
9 the papers in one voice reported, 'China has arrived
10 at the last pass. She will have to meet the situation
11 with extraordinary resolution,' and began to assume a
12 tone as though they had determined on a fight with
13 Japan. Especially the anti-Japanese newspapers and
14 the Commander of the Woosung-Shanghai defense garrisons
15 Lieutenant General Yang Hu expressed full confidence
16 in such bombastic language as the following: 'If
17 hostilities are once opened we will overwhelmingly
18 rout the entire Japanese population into the Whang-Ho
19 inside two days.'

20 "From about this period Chinese planes began
21 to be stationed at Hungjao aerodrome and other places
22 within the prohibited area fixed by the armistice agree-
23 ment. They began to fly occasionally over the landing
24 party in intimidation flights. In actual fact the
25 strength of the landing party at this time as a standing

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1 force of 2,000 plus 300 troops which had accompanied
2 Japanese civilian evacuees down the Yangtze from the
3 Hangkow area, a total of 2,300 (to which 1,000 were
4 added after the OYAMA incident to bring a total up
5 to 3,330). Opposed to this an estimated 60,000 crack
6 Chinese troops lay in preparedness in the close
7 vicinity at Shanghai. Hence their full confidence
8 in their strength was justifiable under the circum-
9 stances.

10 "The increase of troops from about this time
11 was conducted openly, units dressed in regular army
12 uniforms being sent in as reinforcement. The situation
13 had become such that Japanese military and civilian and
14 third party national strength could no longer cope
15 with this outside pressure and it hourly began to take
16 on the aspects of a quasi-state of war. Civilian
17 Chinese living on the outskirts of the settlements
18 began to feel misgiving for the occupation and construc-
19 tion of positions by the Chinese regular troops and
20 following the directives of the officials began evac-
21 uation starting a stampede for the settlements. In
22 the first place, third party nationals and civilian
23 Chinese, not to mention Japanese residents in Shanghai,
24 had learnt their lesson from the tragedy of the first
25 Shanghai incident of five years ago, so that it was

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1 their mutual prayer that no other incident take place,
2 not at least in Shanghai. We too, following the
3 policy of nonextension of hostilities of the Central
4 Command did our utmost absolutely to prevent an inci-
5 dent breaking out in Shanghai.

1 "(7) In the afternoon of August 9th the
2 following incident took place. Lieut. J. G. OYAMA,
3 defense commander of the western sector while passing
4 through the sector under his command in an automo-
5 bile was shot by machine-gun fire on Monument Road
6 in the Extension by Chinese regular troops, to-
7 gether with his driver, First Class Seaman SAITO,
8 and cut to death by Chinese soldiers.

9 "(8) It was decided to settle this
10 incident through diplomatic negotiations, following
11 the policy of nonextension of hostilities of the
12 central command. Consul General OKAMOTO undertook
13 the diplomatic negotiations in general and for the
14 moment an on-the-spot investigation was conducted
15 and the corpses received.

16 "As the result of the above investigation
17 which was made by Japanese and Chinese interested
18 parties together with third party national news-
19 paper men, it was made evident that Lieut. J. G.
20 OYAMA and his driver were suddenly fired upon by
21 Chinese regular troops with machine guns and cut
22 to death with Chinese swords; the whole constituting
23 an illegal act. The chief of staff admitted this
24 fact and extended an apology.

25 "(9) Mayor Yu called on Consul General

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1 OKAMOTO and deplored that the situation was entirely
2 out of his control. The Chinese headquarters which
3 was at Lung Hwa immediately moved to Chen Lu Chin
4 and prepared to assume the duties of a combat command,
5 trucks and civilian ships in the vicinity of Shanghai
6 were mobilized as were railways and all manner of
7 other transportation facilities for the quick ad-
8 vance of the 200,000 troops laying in wait outside
9 the boundary fixed by the armistice, to the out-
10 skirts of the settlements.

11 "(10) The landing party in the midst of
12 this commotion conducted the funeral rites of Lieut.
13 J. G. OYAMA and First Class Seaman SAITO from 1:00
14 p. m. of the 12th in the inner grounds of the land-
15 ing party headquarters.

16 "(11) The rush of Chinese regular troops
17 to the outskirts of the settlements reached its
18 high-water mark on the 12th. On the morning of the
19 12th, the 87th and 88th divisions passing through
20 North Station had advanced to the western sector of
21 North Szechuan Road, and in the course of the morn-
22 ing a Kempei soldier was killed and a civilian ab-
23 ducted. Third party nations too, to meet the situa-
24 tion, began to take up defense positions in their
25 several sections according to the Shanghai Defense

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1 plan, which had been agreed upon and was in exis-
2 tence since 1927 (2nd Showa). The defense of
3 Toyodo Textile factory was delegated to the
4 British garrison following defense plan agreed upon.

5 "(12) In the middle of the funeral
6 ceremony of Lieut. J. G. OYAMA there was a telephone
7 message from Consul General OKAMOTO to the effect:
8 'As I have requested a meeting of the joint com-
9 mittee of the settlements to impeach the illegal
10 action of the Chinese, I would like you to attend at
11 all costs. I attended the joint committee meeting
12 held at the Municipal Council after the funeral
13 rites were concluded. The Chinese then already be-
14 ing unable to contact the military, there were no
15 officers present, only Mayor Yu attending.

16 "The conference attended on the Japanese
17 side by Consul General OKAMOTO and myself, by Mayor
18 Yu on the Chinese side, and by Consul General" --

19 THE PRESIDENT: Well, you fully proved
20 that, and there is no contest about what occurred.
21 The prosecution accepts your proof of that.

22 MR. ROBERTS: In view of the fact that
23 they accept it, I will proceed with paragraph 13.

24 "(13) Nothing occurred during the night
25 of the 12th but around 9 o'clock of the morning of

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1 the 13th, the settlement garrison of the Japanese
2 landing party was fired upon from the building of
3 the Commercial Press Warehouse.

4 "At 1 p. m. the commander of the landing
5 party called an emergency meeting of all officers
6 above the rank of Battalion Commander and gave them
7 among others the following instructions, again
8 stressing the policy of nonextension of hostili-
9 ties: 'All efforts to be made to prevent spreading
10 of hostilities to Shanghai. Unless attacked by
11 Chinese, absolutely to refrain from fighting.'
12 From after 4 p. m., the Chinese opened artillery
13 fire on the landing party from the direction of
14 Pa Tsu Chiao (8th Charater Bridge).

15 "Up to this time every possible effort
16 was made and everything was patiently endured, but
17 the landing party could no longer calmly look on
18 without endangering the lives and properties of the
19 Japanese community; and further, as there was danger
20 of the landing party itself falling into a critical
21 condition, the order, 'All hands on the alert,' was
22 given. The time was 4:30 p. m., August 13th. The
23 troops of Japan and other countries then assumed
24 their positions. There were about 3,000 British
25 Troops, 2,000 American Marines, and 2,000 French

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1 Troops. The Chinese strength of the first line
2 alone at this time was estimated at 200,000. The
3 Japanese landing party was a weak force of 3,300.
4 The fighting reached its peak on the 16th of
5 August, when the landing party was in a critical
6 position and the whole Japanese community resigned
7 itself to the worst.

8 "(14) The situation in Shanghai being
9 of such a critical tenor, a section of the army
10 forces was dispatched by warships. These units
11 which arrived August 23rd were troops hastily
12 mobilized in the emergency and their equipment was
13 of an extremely make-shift nature and they arrived
14 without sufficient munitions and military stores.
15 Thereafter, further reinforcements arrived to
16 equalize the situation."

17 You may cross-examine.

18 THE PRESIDENT: Mr. Comyns Carr.

19 CROSS-EXAMINATION

20 BY MR. COMYNS CARR:

21 Q You arrived, Witness, in 1936 in Shanghai,
22 I understand. Is that right?

23 A Yes.

24 Q When you got there did you find that there
25 was a newly constructed headquarters of your landing

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1 party?

2 A It was built previously. It was standing
3 there.

4 Q Yes. Do you know that it had been built
5 since the agreement of May, 1932?

6 A I recall that an old building was reno-
7 vated since that time.

8 Q How big was the building? Was it as large
9 as this building in which we are assembled? I do
10 not mean this room but the whole building.

11 A No, it was not as large as this.

12 Q Was it nearly as large?

13 A I believe it was not even half of this
14 building, the size of this building.

15 Q Had the renovztion consisted of strengthen-
16 ing and fortifying it?

17 A No, this is not so. It was built for
18 people for living in, troops to billet.

19 Q Did you say it was not in any sense forti-
20 fied?

21 A It was definitely not fortified. It was
22 an ordinary building.

23 Q Was it built with its entrance on one of
24 what are called the extra-settlement roads?

25 A Both the front and the rear were on the

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1 extra-settlement, faced the extra-settlement road.

2 Q You mean they both faced the same road?

3 A The building faced the North Szechuan
4 Road on one side and Wanla Road on the other side.
5 Both roads were within the extra-settlement. This
6 building was situated between these two roads, and
7 these two roads were part of the extension road.

8 Q And it stretched right away from the one
9 to the other, did it?

10 A It was in a u-shaped form with the build-
11 ing being located between the two roads. One road
12 was a small road which was merely an extension of
13 the North Szechuan Road.

14 THE PRESIDENT: In a hairpin bend, I sup-
15 pose.

16 Q Did you find that your marines had es-
17 tablished this post at the 8th Character Bridge, the
18 post that we have heard about?

19 THE PRESIDENT: Mr. Carr, while you are on
20 that, a map is referred to in that agreement.

21 MR. COMYNS CARR: Yes.

22 THE PRESIDENT: But I understand the map is
23 not being tendered. Without a map we cannot decide
24 what was the prohibited area.

25 MR. COMYNS CARR: Your Honor, the map will

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1 be helpful. I should like to tender the set of
2 maps -- I think there are four of them which form
3 part of the agreement -- now.

4 THE PRESIDENT: Well, you can tender
5 nothing the witness does not acknowledge.

6 MR. COLYNS CARR: Yes. Will you show them
7 to the witness?

8 Are those the maps which were attached
9 to the agreement and which you produced at the
10 committee meeting or copies of them?

11 MR. COLYNS CARR: Did I understand from
12 your Honor that the Members of the Tribunal have
13 copies of the maps attached to exhibit 2419?

14 THE PRESIDENT: No, we have not, and I
15 understand that there is no map covered by a certifi-
16 cate in the possession of the Clerk of the Court.

17 MR. ROBERTS: I understand that was the
18 difficulty in our offering them as well.

19 THE PRESIDENT: Who could be more qualified
20 than this Rear Admiral, who knows the agreement and
21 knows the locality, and who played a leading part in
22 the transaction, and whose duty it was to know the
23 prohibited area?

24 Q Are those the maps, Mr. Witness?

25 A I believe that these are the maps which

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1 are annexed to the Cease-Fire Agreement.

2 THE PRESIDENT: His belief is sufficient.

3 MR. COMYNS CARR: Yes, but I am afraid
4 we are not at this stage provided with copies, your
5 Honor. We will have them made.

6 THE PRESIDENT: We will first recess for
7 fifteen minutes.

8 (Whereupon, at 1450, a recess
9 was taken until 1507, after which the
10 proceedings were resumed as follows,
11 Honorable Henri Bernard, Member from the
12 Republic of France, not sitting:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Comyns Carr.

4 MR. COMYNS CARR: Your Honor, during
5 the recess we have been together, both sides,
6 looking at these maps, and there are five of them
7 which were annexed to the agreement, but it is
8 common ground between us that only one of them
9 would be of any assistance to the Tribunal for the
10 present purpose; and we suggest that that one should
11 have the same number as the agreement, namely,
12 2419, and be treated as part of the agreement. The
13 others could be marked under that number, A, B, C
14 and D, which happen to be the markings existing on
15 them at the present time, in case anybody should
16 want to refer to them hereafter.

17 THE PRESIDENT: Those maps are admitted on
18 the usual terms and will be numbered and lettered
19 accordingly.

20 (To the Clerk of the Court) You needn't
21 call out anything.

22 (Whereupon, the maps above re-
23 ferred to were marked prosecution ex-
24 hibits 2419 and 2419A through D, in-
25 clusive, respectively and received in

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1 evidence.)

2 MR. COMYNS CARR: Your Honor, to link them
3 up with the agreement, the one with the number
4 2419 is the one referred to in Annex I of the
5 agreement. With regard to the question of getting
6 them reproduced, I understand there are consider-
7 able difficulties in that, and I would ask that
8 the Tribunal, having looked at that one which we
9 think may be of some help, should tell us whether
10 they think it will be of sufficient help to justify
11 those difficulties being, if possible, overcome.

12 THE PRESIDENT: Well, could you agree
13 upon some kind of sketch showing boundaries and
14 localities in question?

15 MR. ROBERTS: I am very hopeful that that
16 can be done.

17 MR. COMYNS CARR: So am I, your Honor.
18 Now, if your Honor will look at it --

19 THE PRESIDENT: Eleven of us must look
20 at it, Mr. Carr.

21 MR. COMYNS CARR: Yes. I am afraid it is
22 not possible that you shall all look at it at the
23 same time. The red line is the line to the west of
24 which the Chinese troops were at the time of the
25 truce.

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1 Your Honor will observe that it ends in
2 space, so to speak. It extends from the river
3 bank for a certain distance and then no further.
4 It extends to the village called Antung, which is
5 mentioned in the Annex, or it may be Anting; I am
6 not quite sure.

7 THE PRESIDENT: "Anting" in the map.

8 MR. COMYNS CARR: "Anting."

9 MR. ROBERTS: It may be that the witness
10 can give us valuable information as to the posi-
11 tions and indicate them on the map.

12 THE PRESIDENT: Well, if Mr. Carr wants
13 the witness to indicate on the map the places in
14 question, he is at liberty to get him to do so.
15 Whether the judges will require copies of that map
16 or will be satisfied with something of the kind
17 they indicated must be decided by the judges in
18 conference.

19 (Whereupon, the map above re-
20 ferred to was handed to the witness.)

21 BY MR. COMYNS CARR (Continued):

22 Q Mr. Witness, on that map is shown the city
23 of Shanghai and a railway running due north from
24 it to the mouth of the river. Do you see that?

25 A Yes, I see it.

1 Q Is it right that the International
2 Settlement and the extra-settlement roads that
3 have been referred to were all in the area to the
4 north of the city and to the east of the railway?

5 A I don't understand the gist of the ques-
6 tion very well. May I have it repeated, please?

7 Q Is it right that the International Settle-
8 ment and also the extra-settlement roads were all
9 in the area appearing on that map as to the north
10 of the city itself and to the east of the railway
11 line?

12 A Yes, the International Settlement occupies
13 part of the portion east of the railway and also
14 west of this railway.
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11 line:

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13 part of the portion east of the railway and also
14 west of this railway.
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1 Q Do you say it extended on both sides of the
2 railway?

3 A Yes, of course.

4 Q Or was that only some of the extra-settlement
5 roads that were on the west of the railway?

6 A The International Settlement, the greater part
7 of the International Settlement is on the west -- to
8 the west of the railway line.

9 Q Where was your naval headquarters?

10 A Approximately at the end of North Szechuen
11 Road.

12 Q Can you mark with a pencil on that map where
13 you say it was?

14 THE PRESIDENT: Put a circle about one-
15 eighth of an inch in diameter and the letter A along-
16 side the spot.

17 A Yes, I can do so but the scale of the map
18 is so small that it is difficult, but I can do so
19 approximately. On the railway line which extends
20 eastward to Kiangwan and westward to the city of
21 Shanghai it is located approximately in the middle of
22 these two points but a little bit towards the south.

23 THE PRESIDENT: It is pointed out to me by
24 a Member of the Tribunal that the boundary does not
25 appear to end in space but according to the 1932

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1 agreement it starts on the Soochow Creek south of
2 Anting Village and runs north to end on the Yangtze
3 River.

4 MR. COMYNS CARR: Yes, your Honor, but what
5 I meant as ending in space, as one can see by looking
6 at the map, is that it does not deal with anything --
7 does not provide any line south of Anting Village or
8 at least south of Soochow Creek.

9 Have you marked the place where your head-
10 quarters were on the map? May we see it, please?

11 (Whereupon the map was handed to

12 Mr. Comyns Carr.)

13 MR. COMYNS CARR: Your Honor, we can agree
14 that the witness' mark has been approximately correct
15 and perhaps I will get him to mark one other place
16 before handing it up to the Tribunal. Hand it back
17 to the witness, please.

18 (Whereupon, the map was returned to
19 the witness.)

20 Q Now will you mark with a green pencil, which
21 is going to be handed to you, the place where you
22 say the Hungchiao Airdrome was?

23 Your Honor, I am informed that we could now --
24 we have discovered we could reproduce this map if
25 desired, but I think the Tribunal would find an agreed
sketch map more helpful.

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1 Before he parts with it, would you also mark
2 the place where you say the Eight Character Bridge was?

3 A I have indicated with a triangle the location
4 of the Eight Character Bridge, Paitzechao.

5 MR. COMYNS CARR: Now hand it up to the
6 Tribunal, would you?

7 THE PRESIDENT: Mr. Carr, a Member of the
8 Tribunal would like to have the Commercial Press Ware-
9 house located on the map by the witness.

10 (Whereupon, the witness marked the
11 said location on the map.)

12 (Whereupon, the map was handed to the
13 Tribunal.)

14 MR. COMYNS CARR: Your Honor, I am instructed
15 that we can agree to those as being approximately
16 correct with this exception, that according to our
17 view he has got the three places, other than the air-
18 drome, too close together. They should be each a
19 little further away, that is, away from the city, other
20 than the Commercial Press.

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1 MR. ROBERTS: I believe we should permit
2 the witness to indicate as to position and any
3 agreement that is reached should be between defense
4 counsel and prosecution, not only prosecution.

5 MR. COMYNS CARR: I think so.

6 THE PRESIDENT: The prosecution should
7 assume any burdens attached to it, I think.

8 MR. COMYNS CARR: Yes.

9 THE PRESIDENT: I don't see what they
10 can be. There will be no rights affected.

11 MR. COMYNS CARR: Oh, no, your Honor.
12 I was merely indicating how far we were in a
13 position to accept the witness' markings and I
14 don't think the differences are important.

15 Mr. Witness, the only point on which we
16 seem to disagree seriously with you is that I
17 suggest to you that the whole of the International
18 Settlement is to the east of the railway.

19 Your Honor, I do not propose to take up
20 more time by discussing it now. We will try to
21 produce an agreed sketch map in due course.

22 MR. ROBERTS: I think that would be a much
23 better course.

24 MR. COMYNS CARR: Your Honor, I should, of
25 course, make clear that we are not accepting the

1 position that on the true construction of this
2 agreement there was in 1937 any prohibited zone
3 at all.

4 MR. ROBERTS: We understood that was a
5 point for the Court to decide.

6 MR. COMYNS CARR: Yes, of course. I
7 just wanted to make clear I am not accepting it.

8 THE PRESIDENT: I understood that to be
9 the prosecution's contention.

10 MR. COMYNS CARR: Now just a few questions
11 about your affidavit, Mr. Witness.

12 Q On page 5, at the top, you refer to a
13 statement by General Yanghu. Did you hear him
14 make that statement?

15 A At that time all Chinese newspapers ran
16 large photographs of General Yanghu and ran stories
17 in the form of question-and-answer that he had with
18 the press. All the papers referred to his words
19 at that time generally as I have stated in my
20 affidavit. We saw these articles ourselves personally
21 in the paper.

22 THE PRESIDENT: Yes, Mr. Carr.

23 MR. COMYNS CARR: Your Honor, the affi-
24 davit would make it appear that this is the witness'
25 personal testimony. He now says it is merely from

1 a newspaper which is not produced. And I would
2 ask the Tribunal to disregard it.

3 Q Now in paragraph 7 on page 6 you refer to
4 the death of Lieutenant OYAMA and his companion.
5 Was there not also a Chinese guard whose body
6 was found with those two Japanese bodies?

7 A I should like to relate the truth of
8 this situation in detail. May I do so?

9 Q No, please answer the question first.

10 THE PRESIDENT: You may add any explanation
11 after your answer you answer the question "yes" or "no".

12 A No.

13 THE PRESIDENT: No explanation is necessary.

14 Q Now would you mind telling me --

15 A (Continuing): Just a moment. I think --
16 I believe that that present point is very important
17 and requires a brief explanation.

18 Q Well, give it.

19 A (Continuing) On the evening of the 9th
20 of August, having learned that Lieutenant OYAMA
21 had been killed and that trouble had arisen, the
22 Japanese authorities and the interested Chinese
23 parties went to the spot to conduct investigations.
24 Responsible Chinese authorities went to the spot to
25 conduct investigations.

1 About a hundred meters beyond the entrance
2 of the entrance to Hungjao Aerodrome on the right
3 side of the road we found the body of -- an auto-
4 mobile was found in the ditch to the right of the
5 road.

6 THE MONITOR: And wrecked.

7 A (Continuing) This was just at a curb
8 in the road, And beside the automobile was found
9 the body of Lieutenant OYAMA who had received many
10 machine gun bullet wounds and in addition his head
11 had been split in two by a sword -- a Chinese sword.
12 And the driver in the driver's seat was found dead
13 with numerous bullets in his body, Having learned
14 of this, it resulted in the Chinese and Japanese
15 as well as the representatives of the neutral
16 press conducting an investigation, Then, as a
17 result of this investigation we found this: The
18 three parties found that alongside of the car there
19 was the body of a Chinese soldier who had been shot
20 in the head; and we learned that the -- and the
21 body of the driver SAITO was found at a village
22 about five hundred yards away from the automobile.
23 We found that the body of the driver SAITO had been
24 dragged to a village five hundred yards away. There-
25 fore, discovering a corps which had not been there

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1 the first time, we asked of the Chinese authorities
2 what had happened. But the Chinese officer who
3 was stationed there stated that the Japanese officer,
4 Lieutenant OYAMA, had shot this Chinese soldier to
5 death with a pistol and that, therefore, because
6 of this the Chinese counterattacked against the
7 Japanese OYAMA. Therefore, because of the fact
8 that this body was found, which was not there the
9 first time, it was requested that the body be taken
10 to a hospital and dissected to ascertain whether
11 the bullet was a revolver bullet or not. Lieutenant
12 OYAMA did not possess a revolver at that time --
13 did not carry a revolver at that time. The driver
14 carried a revolver. It was in a holster slung from
15 his shoulder. He was found dead with the revolver
16 in its holster. With medical officers from both
17 the Japanese and Chinese forces participating, the
18 body was dissected at the hospital of the Chenju
19 University and it was discovered that the bullet
20 was a rifle bullet. Accordingly, the trickery of
21 the Chinese in trying to make a put-up job of
22 this incident became very clear -- was exposed.
23 That is all.

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CROSS

1 Q So you thought yourself justified in say-
2 ing that no body of a Chinese guard was found, just
3 now, did you?

4 A Yes.

5 THE PRESIDENT: Mr. Roberts.

6 MR. ROBERTS: I object because he is
7 assuming a state of facts which was not proven. He
8 asked in particular of the witness before if they
9 were not found together with Lieutenant OYAMA.

10 MR. COMYNS CARR: I didn't ask anything
11 of that sort.

12 THE MONITOR: Will the court reporter please
13 read the statement of Mr. Roberts?

14 (Whereupon, the statement of Mr.
15 Roberts was read by the official reporter.)

16 MR. COMYNS CARR: That is not what Mr.
17 Roberts said.

18 THE MONITOR: We will have to forego the
19 translation, because we did not hear Mr. Roberts'
20 entire words. He spoke against the red light.

21 MR. ROBERTS: That is exactly the remark
22 I made, if your Honor please.

23 BY MR. COMYNS CARR:

24 Q Were you a member of the first party that
25 went out to examine?

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CROSS

1 A My assistant staff officer was the one who
2 went on the first investigation.

3 Q And the answer is no, you were not there?

4 A My assistant staff officer went in place
5 of me.

6 Q Were you a member of the second party that
7 went out?

8 A The second time also the second ranking
9 staff officer went, whose duty it was.

10 Q When did you first take any personal part
11 in this story you have told us so fully?

12 A The fighting began immediately following.
13 I went to this spot after the fighting had ceased.

14 Q On what day?

15 A That was after the enemy had retreated.
16 Therefore it should be about the latter part of Novem-
17 ber.

18 Q Now, you say at the end of paragraph 8 of
19 your affidavit that the Chief of Staff, meaning the
20 Chinese Chief of Staff apparently, admitted your
21 story and extended an apology. Do you mean the
22 Chinese Chief of Staff, and if so, what was his name?

23 A I believe it was the senior adjutant. I
24 don't recall his name.

25 Q Were you there when he extended the apology?

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CROSS

1 A At the time the two corpses were recovered
2 and the wreckage of the automobile brought to the
3 naval landing party, the senior adjutant of the
4 Chinese forces came at the same time, and in the
5 presence of the commander of the Japanese landing
6 forces and of ourselves, he expressed his regret over
7 the incident.

8 Q Is that what you mean when you say that
9 he admitted the facts as alleged by you and extended
10 an apology?

11 A It wasn't an explanation on my part. At
12 that time the Chinese only expressed his regrets --
13 apologized.

14 Q Well, which do you mean?

15 THE MONITOR: Just a minute, sir; it is not
16 complete yet.

17 A (Continuing) And the fact is that the
18 three member -- rather, the three-party investiga-
19 tion -- party consisting of -- investigation party
20 consisting of three parties, that is, Chinese, Japan-
21 ese, and the neutral press, did go to the scene and
22 did ascertain the facts, and those facts are true.

23 Q Now, perhaps, you will answer the question
24 I was asking you about your assertion that the Chief
25 of Staff admitted the fact as you have related it

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1 and extended an apology. Did he?

2 A Yes.

3 Q When?

4 A Yes, at the time the corpses which were
5 recovered and the wreckage of the automobile were
6 brought to the naval landing party headquarters the
7 Chinese side apologized -- extended their apology
8 in front of us.

9 Q But that was before this alleged investi-
10 gation that you have told us about had taken place,
11 wasn't it?

12 A No, it was after it, after the corpses had
13 been recovered.

14 Q No, no. Listen to the question and try to
15 answer it.

16 Was not the occasion you have spoken of
17 when the corpses were brought back, as you say, be-
18 fore the investigation which you have told us about
19 had taken place?

20 A No, that is not -- that is not so at all.
21 The corpses were left at the spot and the investiga-
22 tion was conducted.

23 Q When do you say that this apology was ex-
24 tended?

25 A I believe that it was in the afternoon of

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CROSS

1 the day following the work on the spot of recover-
2 ing the corpses, which took all night and which
3 were brought back to the naval landing party.

4 THE MONITOR: In short, the recovering of
5 the body and bringing the body and the car back
6 to the naval landing headquarters took all night
7 and the work was completed in the afternoon of the
8 following day.

9 Q The funeral, you tell us in paragraph 10,
10 took place on the 12th and the shooting on the 9th.
11 How long before the funeral were the bodies brought
12 back?

13 A I think the bodies were recovered on the
14 afternoon of the 10th.

15 Q And are you saying that this investigation
16 you have told us about had then already taken place?

17 A As I have said before, the bodies were
18 recovered after investigations had been conducted.

19 Q Then, on which day do you say this inves-
20 tigation by the three parties happened?

21 A This was done just after midnight of the 9th
22 and extended to the morning of the 10th.

23 Q And when do you say that the body of the
24 Chinese guard was taken to the hospital and dissec-
25 ted?

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1 A The morning of the 10th.

2 Q Who do you say was the newspaper man or men --
3 you spoke of several -- who took part in the inves-
4 tigation?

5 A I don't know their names, but they were the
6 reporters from all the important papers in Shang-
7 hai.

8 THE PRESIDENT: We will adjourn now until
9 half-past nine tomorrow morning.

10 (Whereupon, at 1600, a recess was
11 taken until Friday, May 2, at 0230.)
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